RD AN No. 3597 (1965-B)
December 7, 2000

TO: State Directors

ATTENTION: Multi-Family Housing Program Directors and
Rural Development Managers

FROM: James C. Kearney ***(Signed by Alex Jones)*** for
Administrator
Rural Housing Service

SUBJECT: Multi-Family Housing Workout Plans

PURPOSE AND INTENDED OUTCOME:

The purpose of this Administrative Notice (AN) is to identify priority usage of various workout plan approaches. The intended outcome is to use these priorities in servicing.

COMPARISON WITH PREVIOUS AN:

This AN reissues the principles set out earlier in RD AN No. 3489(1965-B), dated October 25, 1999.

IMPLEMENTATION RESPONSIBILITIES:

State Directors should ensure their staffs are knowledgeable of the workout plan priorities set out herein.

Workout plans are needed when borrowers are deviating from their responsibilities. They are required whenever restoring compliance with Agency regulations is unlikely to be achieved within a typical 12-month budget cycle using normal servicing techniques. Prior Agency consent is required. There are a variety of techniques to use in workout plans. However, experience shows that workout plans often rely on several broad approaches. The Agency is setting out its priority preferences (not hard and fast requirements) for consideration of workout plan approaches. They are as follows:

EXPIRATION DATE: December 31, 2001

FILING INSTRUCTIONS:
Preceding RD
Instruction 1965-B

1. Use of existing project resources. When regulatory compliance can be restored with the use of the project's own financial resources, this is the preferred method to use. Such workout plans may involve using shelter cost changes, reserve funds, expenditure reduction measures, and reamortization actions.

2. Use of subsequent loan funds. When adequate Rural Housing Service loan funds are available, and the project is realistically capable of carrying out successful operations with an increased debt load, restoration of compliance by using subsequent loan funds is desirable.

3. Use of non-Agency financial assistance. When adequate Rural Housing Service funding is not available or not adequate, non-Agency financial assistance may be used. The project must be realistically capable of carrying out successful operations with an increased debt load. In using such sources, the following priorities should be considered:

a. Contribution of funds without repayment.
b. Unsecured loans.
c. Loans with a junior lien position.
d. Loans with a parity lien, when legally possible.
e. Loans with the Rural Housing Service subordinating its lien position.

4. Sale of a portion of security property. The sale of a portion of the security property may be warranted. An example is when a project's existing scale of operation is unable to be successful, but a smaller scale of operation is projected to be feasible. Tenant displacement issues should be carefully considered and minimized. Letters of priority entitlement should be issued to any displaced tenant household.

5. Write-down of debt and continuation with new borrower. When no other feasible option is available to assure the success of project operations, debt may be written down at the time of transfer to a new borrower.

6. Write-down of debt and continuation with same borrower. When no other feasible option is available to ensure the success of project operations, debt may be written down to the same borrower. This is authorized only on a case by case basis under the Administrator's exception authority (i.e., using section 1965.97 of RD Instruction 1965-B, or section 1956.99 of RD Instruction 1956-B). Approval requires those owners exercising a controlling interest in project operations to be permanently removed from the project's management. Owners must rescind any rights to vote on how the project's normal operations are conducted. These approval conditions may be accomplished by actions such as having a general partner step down or acquire a limited partner role. Owners are thereby removing themselves from all general partnership interests and decisions regarding normal project operations. In rare instances, a debt write-down may be authorized where those holding a controlling interest in the normal operations of a project are retained. As with any exception request, these circumstances will only be considered on a case by case basis. One example of such an unusual circumstance may be when the borrower is a Housing Authority. There may be circumstances where changes on a Board of Directors of a Housing Authority are being made to improve project management and operations. However, not all board members are necessarily required to step down. This circumstance may justify favorable consideration. All circumstances must be thoroughly documented prior to forwarding the recommendation to the Administrator.

Questions concerning this AN may be directed to James E. Vollmer of the Multi-Housing Servicing Portfolio Management Division at 202-720-1060 or other members of the staff at 202-720-1060.